

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RAJ KUMAR,

Plaintiff,

v.

CONVENIENCE RETAILERS, LLC, d/b/a
MY GOODS MARKET, a Delaware
corporation; and EAGLE CANYON
CAPITAL, LLC, a Delaware corporation,

Defendants.

NO. 2:16-cv-00364-RSL

AGREED PRETRIAL ORDER

15
Trial Date: November 15, 2017

In accordance with LCR 16, LCR 16.1, and the Court's Minute Order Setting Trial Dates and Related Dates (Dkt. No. 11), Plaintiff Raj Kumar ("Kumar") and Defendant Eagle Canyon Capital, LLC f/k/a Convenience Retailers, LLC d/b/a My Goods Market ("My Goods Market"), through their undersigned counsel, submit this Agreed Pretrial Order.

I. JURISDICTION

Jurisdiction is vested in this Court pursuant to 28 U.S.C. § 1331.

II. CLAIMS AND DEFENSES

Plaintiff will pursue at trial the following claims:

1. Violation of 43 U.S.C § 2000(e) *et seq.* for alleged disparate treatment – discrimination based on religion.

1 2. Violation of RCW 49.60 *et seq.* for alleged disparate treatment – discrimination
2 based on religion.

3 3. Plaintiff has abandoned and will not be pursuing his previously asserted claims
4 for (a) Violation of Washington's Wage Payment Act, RCW 49.48 *et seq.*; and (b) Negligent
5 Infliction of Emotional Distress. *See* Complaint (Dkt. 1) at ¶¶ 5.7 – 5.12.

6 4. Plaintiff stipulates that he has no lost wages or other economic damages because
7 he earned more money following the termination of his employment with My Goods Market.
8 The only damages that Plaintiff seeks herein are for emotional distress.

9 Defendant will pursue the following affirmative defenses:

10 1. Plaintiff's employment was terminated for one or more legitimate,
11 nondiscriminatory reasons.

12 2. My Goods Market is not liable to Plaintiff because My Goods Market exercised
13 reasonable care to prevent discriminatory and/or harassing conduct on the part of its employees,
14 and would have promptly corrected any such conduct had Plaintiff acted reasonably by
15 providing it notice of alleged discriminatory and/or harassing conduct, which Plaintiff did not.

16 3. My Goods Market is not liable for punitive damages because My Goods Market
17 did not act with malice toward Plaintiff and made good faith efforts to comply with Title VII
18 and to prevent discrimination in the workplace; as a result, My Goods Market cannot, be held
19 vicariously liable for the acts of a manager, even if they would otherwise be sufficient to
20 support a punitive damage award.

21 **III. ADMITTED FACTS**

22 The following facts are admitted by the parties:

23 1. Plaintiff was an employee of My Goods Market, working as a clerk/cashier from
24 April 24, 2014 through February 6, 2015.

25 2. Plaintiff earned approximately \$10 per hour (less applicable withholdings) while
26 working at My Goods Market. In 2014, he was paid \$9.32 per hour for regular hours and
27

\$10.32 for graveyard shifts, and in 2015, he was paid \$9.47 per hour and \$10.47 per hour for graveyard shifts in 2015.

3. Plaintiff's last day worked for My Goods Market was on or about January 22, 2015.

4. Plaintiff was terminated from My Goods Market on or about February 6, 2015.

5. In 2014, Plaintiff was employed by or did work for (a) Uber Technologies, Inc. (Rasier, LLC) as a driver; (b) My Goods Market (Convenience Retailers, LLC) as a clerk/cashier; (c) Sadguru Enterprises, Inc. as a clerk/cashier; (d) Hubfill, Inc. as a clerk/cashier; and (e) Lyft, Inc. as a driver.

6. In 2015, Plaintiff was employed by or did work for (a) Lyft, Inc. as a driver; (b) Sadguru Enterprises, Inc. as a clerk/cashier and manager; (c) Uber Technologies, Inc. (Rasier, LLC) as a driver; (d) A1 Luxury Seattle Limos as a driver; and (e) My Goods Market (Convenience Retailers, LLC) as a clerk/cashier.

IV. EXPERT WITNESSES

None. Neither party disclosed any expert witness.

V. OTHER WITNESSES

The names and addresses of witnesses, other than experts, to be used by each party at the time of trial and the general nature of the testimony of each are:

A. On behalf of Plaintiff:

Witness Names and Addresses	General Nature of the Expected Testimony	Current Expectation re Testifying
Raj Kumar c/o Cline & Casillas, P.C. 520 Pike Street, Suite 1125 Seattle, WA 98101	Mr. Kumar is the Plaintiff; he will testify regarding his employment with My Goods Market, other employment and opportunities in 2014- 2015, and alleged damages.	Will testify

Witness Names and Addresses	General Nature of the Expected Testimony	Current Expectation re Testifying
Shakti Prabha 18826 19 th Dr. SE Bothell, WA 981012	Ms. Prabha is married to Plaintiff; she will testify regarding her observations of Mr. Kumar	Will testify ¹
Katherine Reggans c/o Savitt Bruce & Willey LLP 1425 4 th Avenue, Suite 800 Seattle, WA 98101	Ms. Reggans is the Director of Operations for Eagle Canyon Capital LLC; she will testify as to the policies, procedures and training in place for My Goods Market, and may testify as to the documentary evidence concerning the termination of Plaintiff.	Will testify

B. On behalf of Defendant:

Witness Names and Addresses	General Nature of the Expected Testimony	Current Expectation re Testifying
Raj Kumar c/o Cline & Casillas, P.C. 520 Pike Street, Suite 1125 Seattle, WA 98101	Mr. Kumar is the Plaintiff; he will testify regarding his employment with My Goods Market, other employment and opportunities in 2014- 2015, and alleged damages.	Will testify
Richard "Raveen" Lal 5701 Highway Place, Apt. 14 Everett, WA 98203	Mr. Lal is a former employee of My Goods Market; he may testify regarding management and operation of the Kirkland location where Plaintiff worked, and the events surrounding the termination of Plaintiff's employment with My Goods Market	May testify
Jose Machuca c/o Savitt Bruce & Willey LLP 1425 4 th Avenue, Suite 800 Seattle, WA 98101	Mr. Machuca is a former district manager for My Goods Market; he will testify as to his management of the District in which Plaintiff worked, training provided by the company, and information on the issues typically faced in operating businesses such as these.	Will testify

¹ Ms. Prabha was not disclosed as a potential witness in Plaintiff's Initial Disclosures or otherwise during discovery in this matter and, accordingly, her contemplated testimony is the subject of one of Defendant's pending motions in limine. See Dkt. 25 at 5:1-17 and 9:12 – 11:2.

Witness Names and Addresses	General Nature of the Expected Testimony	Current Expectation re Testifying
Officer John Ness Kirkland Police Department 11750 NE 118th Street Kirkland, WA 98034	May testify regarding his interactions with Plaintiff on or around February 12, 2016 and the related police report.	May testify
Raj Prasad 13816 Picnic Point Road Edmonds, WA 98026	Mr. Prasad is a former employee of My Goods Market; he may testify regarding management and operation of the Kirkland location where Plaintiff worked, and the events surrounding the termination of Plaintiff's employment with My Goods Market	May testify
Katherine Reggans c/o Savitt Bruce & Willey LLP 1425 4 th Avenue, Suite 800 Seattle, WA 98101	Ms. Reggans is the Director of Operations for Eagle Canyon Capital LLC; she will testify as to the policies, procedures and training in place for My Goods Market, and may testify as to the documentary evidence concerning the termination of Plaintiff.	Will testify

VI. EXHIBITS

A. Admissibility Stipulated:

1. Plaintiff's Exhibits

No.	Date	Exhibit Description	Notes
5	2014-2015	Certain work schedules for My Goods Market	Kumar 000013-000018
7	2/6/2015	Recommendation for Termination	EC000221-222
8	2012	Pacific Convenience & Fuels, LLC – Employee Handbook for Washington Retail Stores; digitally signed by R. Kumar (4/24/15)	EC000110-169

No.	Date	Exhibit Description	Notes
9	2014-2105	Spreadsheet of Employee Time Cards for R. Kumar	EC000249-260
10	2014-2015	Compensation Report for R. Kumar	EC000245-248
13	2/6/15	Personnel Action Form for R. Kumar	EC000220

2. Defendant's Exhibits

No.	Date	Exhibit Description	Notes
501	Signed 4/11/2014	Employee Handbook and addenda signed off on by Plaintiff	EC000110-181

B. Authenticity stipulated; admissibility disputed

1. Plaintiff's Exhibits

No.	Date	Exhibit Description	Objection
6	8/10/15	Medical record for R. Kumar – "Patient Plan for 8/10/15"	FRE 401, 402, 403, 801, 802, 803; <i>Daubert</i> ; foundation
11	11/2014 - 12/2014	Employment records for J. Machuca: Personnel Action Form and Performance Evaluation	FRE 401, 402, 403, 801, 802, 803
12	10/15/2010	Employment records for R. Lal: Personnel Action Forms and Performance Evaluation	FRE 401, 402, 403, 801, 802, 803

No.	Date	Exhibit Description	Objection
14	N/A	Spreadsheet of former My Goods Employees and employment dates	FRE 401, 402, 403, 801, 802, 803

2. Defendant's Exhibits²

No.	Date	Exhibit Description	Objection
502	Signed 4/11/2014	Injury and Illness Prevention Form and associated policies/procedures signed off on by Plaintiff	ER 401, 402, 403
503	Signed 4/11/2014	Site Expectations Form signed off on by Plaintiff	ER 401, 402, 403
504	Signed 4/11/2014	Meal Break Policy signed off on by Plaintiff	ER 401, 402, 403
505	Undated	Updated Employee Handbook	ER 401, 402, 403
506*	Various	Monthly newsletters and trainings	ER 401, 402, 403, 801, 802
508	Various	Communications concerning contact by Plaintiff to HR about management application	ER 401, 402, 403, 801, 802
509	Various	Communications concerning contact by Plaintiff to HR about management application	ER 401, 402, 403, 801, 802

² For exhibits marked with an asterisk (*), Plaintiff is contesting admissibility of only portions of the exhibit

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SAVITT BRUCE & WILLEY LLP
 1425 Fourth Avenue Suite 800
 Seattle, Washington 98101-2272
 (206) 749-0500

No.	Date	Exhibit Description	Objection
510	Various	Communications concerning contact by Plaintiff to address wage and hour inconsistency	ER 401, 402, 403, 801, 802
511*	Various	Sadguru Enterprises, Inc. records	ER 401, 402, 403, 801, 802
512*	Various	Lyft, Inc. records	ER 401, 402, 403, 801, 802
513*	Various	Uber Technologies, Inc. records	ER 401, 402, 403, 801, 802
514	Various	Screenshots from R. Kumar Facebook	ER 401, 402, 403,
515	2/12/2015	Kirkland Police Report	ER 401, 402, 403, 801, 802
516 ³	1/26/2015	Email re "Raj Kumar Team Member" and attachments	ER 801, 802
517	1/26/2015 – 2/4/2015	Email chain re "Raj Kumar Team Member"	ER 801, 802

³ Defendants disclosed Exhibits 516 and 517 on October 12, 2017, after the deadline for motions in limine. In addition to the objections noted, Plaintiff objects to the untimely disclosure of these exhibits.

C. Authenticity and admissibility disputed

1. Plaintiff's Exhibits

No.	Date	Exhibit Description	Objection
4	1/18/15 – 2/4/15	Photocopies of screenshots from cellphone regarding certain calls and texts	FRE 401, 402, 403, 801, 802, 803, 1003

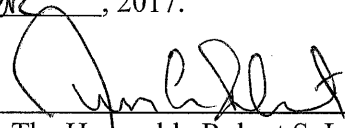
2. Defendant's Exhibits – NONE

VII. ACTION BY THE COURT

- (a) This case is scheduled for a 2-3-day jury trial on November ¹⁵ 8, 2017. Dkt. 11.
- (b) Trial briefs, proposed voir dire questions, proposed jury instructions, and trial exhibits shall be submitted to the Court on or before November ⁸ 1, 2017. Dkt. 11.
- (c) *[insert any other ruling made by the Court at or before pretrial conference.]*

This order has been approved by the parties as evidenced by the signatures of their counsel. This order shall control the subsequent course of action unless modified by a subsequent order. This order shall not be amended except by order of the Court pursuant to agreement of the parties or to prevent manifest injustice.

DATED this th 13 day of November, 2017.


The Honorable ~~Robert S. Lasnik~~ James L. Robart
UNITED STATES DISTRICT JUDGE

1 FORM APPROVED:

2 /s/ Loyd J. Willaford [email authorization]

3 Loyd J. Willaford, WSBA #42696

4 Sarah Derry, WSBA #47189

5 **CLINE & CASILLAS, P.S.**

6 520 Pike Street, Suite 1125

7 Seattle, WA 98101

8 Tel: (206) 838-8770

9 lwillaford@clinelawfirm.com

10 sderry@clinelawfirm.com

11 *Attorneys for Plaintiff Raj Kumar*

12 /s/ Stephen C. Willey

13 Stephen C. Willey, WSBA #24499

14 C.N. Coby Cohen, WSBA #30034

15 **SAVITT BRUCE & WILLEY LLP**

16 1425 Fourth Avenue, Suite 800

17 Seattle, WA 98101

18 Tel: (206) 749-0500

19 swilley@sbwllp.com

20 ccohen@sbwllp.com

21 *Attorneys for Defendant Eagle Canyon Capital, LLC*

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document was filed electronically with the Court and thus served simultaneously upon all counsel of record, this 25th day of October, 2017.


Nikki Kunz